

EXHIBIT 124

Excerpts from Deposition Transcript Vol. II of Abigail Panter

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:14-CV-00954

STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH
CAROLINA, et al.,

Defendants.

DEPOSITION
OF
ABIGAIL PANTER - VOLUME II

THIS DEPOSITION CONTAINS HIGHLY CONFIDENTIAL AND
PROPRIETARY INFORMATION AND IS SUBJECT TO A PROTECTIVE
ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

TAKEN AT THE OFFICES OF:
THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
222 East Cameron Avenue
110 Bynum Hall
Chapel Hill, NC 27514

12-04-18
8:28 A.M.

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1 Did I read that correctly?

2 A. Yes.

3 Q. I believe this is what you made
4 reference to before in part, right, the previous
5 work of the Race-Neutral Alternatives Group that
6 -- that your Committee picked up on that work?

7 A. Yes.

8 Q. Okay. And if you go to the next
9 paragraph it states that "The Subcommittee
10 reviewed literature about the three race-neutral
11 admission strategies: 1) percent plans, 2)
12 socioeconomic affirmative action programs, and 3)
13 race-neutral diversity essays."

14 Did I read that correctly?

15 A. Yes.

16 Q. Okay. So the Subcommittee reviewed
17 literature about those different strategies,
18 right?

19 A. Yes.

20 Q. Okay. If you go to the next paragraph,
21 at the start -- the first sentence in the next
22 paragraph says, "Research generally suggests that
23 percent plans are unlikely to be effective and
24 efficient substitutes for admission strategies
25 that overtly consider race."

1 Did I read that correctly?

2 A. Yes.

3 Q. So am I correct to understand that that
4 was a conclusion of the Literature Review
5 Subcommittee?

6 A. It was a conclusion based on what the
7 data looked like -- the research looks like in the
8 update of the work that was done from the prior
9 Committee. And based on the individual
10 institutions where top X percent plans were
11 implemented.

12 Q. Understood. So based on those things it
13 was a conclusion drawn by the Literature Review
14 Subcommittee?

15 A. Yes.

16 Q. Great. If you could go to the next
17 paragraph, which is at the bottom of that page and
18 then goes over onto the next page, page 6. I'm
19 going to read part of that. It says, "This
20 literature review has cast doubt on the utility of
21 race-neutral strategies as complete substitutes
22 for overt considerations of race. Still, the
23 literature suggests that the outcomes of race-
24 neutral admission strategies vary depending on the
25 circumstances surrounding the particular

1 simulations.

2 A. Correct.

3 Q. Correct? Thanks. Okay. I want to look
4 at the number 2 on that same page. Do you see
5 where it says the Data Analytic Subcommittee?

6 A. Yes.

7 Q. Okay. I'm going to read the first
8 sentence of that paragraph. It says "This
9 subcommittee conducted an analysis designed to
10 empirically examine the role of various
11 undergraduate applicant factors including race
12 ethnicity that were considered as a part of the
13 holistic admissions process during the 2016 to
14 2017 application cycle and presented its findings
15 to the larger Committee."

16 Did I read that correctly?

17 A. Yes.

18 Q. So this describes the various models
19 that the Data Analytic Subcommittee created that
20 showed the effect of different variables in the
21 admissions process, correct?

22 A. Yes.

23 Q. Okay. All right. I'm going to go on
24 from there where I left off. The passage reads,
25 "The subcommittee also developed infrastructure

1 for statistical and data analyses that ultimately
2 can be used to evaluate potential race-neutral
3 alternatives strategies."

4 Did I read that correctly?

5 A. Yes.

6 Q. Okay. And is this meant to refer to
7 what you and I were just talking about that this
8 Committee -- or I'm sorry, that the Data Analytics
9 Subcommittee has engaged in substantial
10 preparations towards doing race-neutral
11 simulations?

12 MS. COMBS: Objection.

13 A. This sentence is talking about the
14 preparations for this particular set of models
15 that were being evaluated.

16 Q. (Mr. McCarthy) Okay. So when we were
17 talking before about the preparations that the
18 Data Analytic Subcommittee has engaged in that
19 will eventually lead to the conducting of race-
20 neutral simulations, does that include that the
21 Data Analytic Subcommittee has at least begun
22 building the infrastructure in order to do that?

23 A. Yes. All of this is relevant.

24 Q. Okay. The last sentence on this page,
25 I'm going to read that real quick. It says the

1 socioeconomic status? Is that correct?

2 MS. COMBS: Objection.

3 A. What do you mean by this?

4 Q. (Mr. McCarthy) I'm sorry. The -- this
5 spreadsheet with the data on parent and student
6 income.

7 A. Well, this tells us nothing because it's
8 not linked to -- it just tells us descriptive
9 information about each variable and how they
10 relate, but it does -- tells us nothing about the
11 student level information tied to an applicant.

12 Q. Understood. Understood. I know it's
13 de-identified. So is this spreadsheet meant to be
14 illustrative of the kind of data that is available
15 on applicant socioeconomic status?

16 A. It is -- it presents some data that are
17 available. I don't know if it's intent was to be
18 illustrative. We intended to have identified
19 data.

20 Q. Okay. And what -- if you intended to
21 have identified data, what would that identified
22 data be used for?

23 A. To understand how variables that are
24 currently being used in the admissions process
25 relate to highly relevant variables of interest

1 that have been identified for potential race-
2 neutral options later.

3 Q. Understood. So I want to see if I
4 understand this correctly. The Committee on Race-
5 Neutral Strategies was at this time evaluating
6 some income and asset data that is available about
7 students in order to help determine its potential
8 in a possible race-neutral alternative.

9 MS. COMBS: Objection.

10 Q. (Mr. McCarthy) Is that correct?

11 A. To adequately assess alternatives that
12 have been raised by our working group and in the
13 -- in the literature at large, so the social
14 science and the legal literature at large. We
15 want to ensure that we can look at financial data
16 that are available and we are exploring ways to
17 evaluate the financial data.

18 Q. Great. So there is income and asset
19 data available to the University, correct?

20 MS. COMBS: Objection.

21 A. I can only tell you what's available to
22 us.

23 Q. (Mr. McCarthy) Right. And so that's --
24 that's what I'm saying so the University has some
25 income and asset data on admitted students

1 example, that measuring them on one single
2 variable can lead to issues that, in fact, they
3 could be more potentially better specified if they
4 were individually examined.

5 Q. Okay. If we look at the top of the next
6 page, it says, "Income, what do we have and what
7 do we want." Does this relate to the Committee's
8 search for available data on income and assets and
9 the like?

10 A. Yes.

11 Q. Has the Committee figured out the extent
12 of data that's actually available to it on income
13 and assets?

14 A. We're working on it. It's a difficult
15 question because of the federal mandates around
16 the -- how income data are kept. But we're
17 working on trying to get proxies for SES in any
18 way we can and trying to understand to what extent
19 those proxies are good representations of the kind
20 of income data that we ideally would have.

21 Q. And ideally would have, do you mean that
22 there's income and/or asset data that if the
23 Committee had, it would think that those would be
24 very useful in making a proxy for SES status?

25 MS. COMBS: Objection.

1 A. We are responding from what we read in
2 the literature and what other institutions have
3 done, have completed. And when we're thinking
4 about race-neutral alternatives that are on --
5 based on SES or class based or financial or
6 economic based, that class of -- of race-neutral
7 options. For us to consider those options in a
8 responsible way, we need to make sure that we have
9 the best quality data that we can get about
10 applicants and students who are here at UNC.

11 Q. (Mr. McCarthy) Okay. And when you say
12 the best quality data in this back and forth we're
13 having, you mean with regard to income and assets?

14 A. Yes.

15 Q. Okay. Thanks. Okay. If you turn to
16 page number 3, and I should say this is listed
17 under a header of "Action Steps" ---

18 A. Uh-huh (yes).

19 Q. --- from the previous page.

20 A. Yes.

21 Q. Okay, 3 reads, "Is there an experiment
22 that we could run in the office, controlled
23 experiment, random subsample of applications this
24 admission cycle?" What does that mean?

25 A. It means that at any point if we were to

1 identify a potential race-neutral option, we could
2 design a controlled experiment with a random
3 subset of the applicants that have been -- that
4 have come forth within an application cycle and
5 maybe even this application cycle, to have readers
6 look at those -- the applications with or without
7 certain information.

8 Q. Okay. So in other words -- I just want
9 to make sure I understand. So the normal
10 admissions process is going as usual and a set of
11 application files are sort of duplicated and given
12 to other readers, but without certain information
13 that had been evaluated to see what results
14 would ---

15 A. That's a -- a potential. The -- the
16 readers would be trained readers that would be
17 interchangeable with the kinds of readers that are
18 typically looked at. They wouldn't be real
19 decisions at this time.

20 Q. Right.

21 A. They would be decisions of what would
22 the readers have -- what decisions would the
23 readers have made based on of admissions based on
24 the information that's present.

25 Q. Understood. So there'd be comparable

1 readers who are trained comparably but evaluating
2 just for the purposes of this research, not making
3 actual admissions decisions, but evaluating the
4 same application files with some slight change to
5 the available data to see how that would come out?

6 A. Yes. And this is consistent with the
7 kinds of controlled experiments that are conducted
8 in some admissions offices as part of research in
9 this area.

10 Q. Understood. Makes sense. Has
11 the Subcommittee or the larger Committee made any
12 decisions to do this kind of experiment?

13 A. Not yet, but we're very close because we
14 have certain variables that we think are really
15 primed for looking at, at least in a preliminary
16 way. An example is that the College Board has an
17 environmental dashboard that is available to us
18 that includes information about neighborhood,
19 family, academic, school, variables that are
20 aggregate variables that could be presented for
21 each application with the application review. And
22 that is something that could be evaluated with and
23 without the presence of the dashboard information.

24 Q. Understood. So if I understand that
25 example. Just want to see. That would be an idea

1 to run this type of experiment we've been
2 discussing on a subset of applications augmented
3 by some College Board data that gives information
4 about neighborhood, family, school and see what
5 the results of that experiment might be.

6 A. Without race and ethnicity included.

7 Q. Right, I'm sorry. Without race and
8 ethnicity included to see if -- if those variables
9 from the College Board would work as a useful
10 alternative to using race and ethnicity, correct?

11 A. Those are -- those are potential areas
12 of -- of studies.

13 Q. Understood. Okay. And do I have it
14 correct that the subcommittee and Committee are
15 close to making a decision on whether to do that
16 kind of experiment?

17 A. We have to receive the data from College
18 Board first and look at the -- them in relation to
19 the models that we've been looking at. And at
20 that point we will be able to look -- the
21 University, itself does not use the dashboard yet
22 overall, so there's some logistics that are --
23 about the transfer of data, the ensuring that we
24 would have access to the dashboard, but we have
25 been -- that is the direction that we're moving.

1 Q. Understood. So it's a direction you're
2 moving but it sounds like there's multiple steps
3 in the process until such time as this kind of
4 experiment might ever be done.

5 A. Yes. We have to transfer admissions
6 data to the College Board. They have to provide
7 the 30-plus metrics around, that are based on
8 national data sets, back to us and then we have to
9 incorporate them, augment our data sets and then
10 examine the quality of those data.

11 Q. Okay. And I don't know if you have an
12 answer to this but my guess is that that kind of
13 process -- if that kind of experiment is
14 ultimately done, it would not be done this
15 admission cycle.

16 A. Well, actually ---

17 Q. Correct?

18 A. --- it's not -- it's not the case that
19 we know that yet. The admission cycle exists and
20 it's going to happen. In fact, we -- we probably
21 shouldn't interfere with what is going on with the
22 admission cycle at this moment since they're in
23 the midst of it. So really what we need to know
24 is the set of decisions made by this admission
25 cycle and then -- or any prior admission cycles

1 and the setup of the -- the sub -- the experiment
2 that we would run where we -- we'd look, again, at
3 a subset of the applications without race and
4 ethnicity and with the presence of the
5 dashboard ---

6 Q. Understood.

7 A. --- formation.

8 Q. Understood.

9 A. And then decisions are made and
10 compared.

11 Q. Sorry, jumping ahead of you. So I think
12 I understand. I -- I had a misunderstanding in my
13 head before. So if this kind of experiment were
14 done, it sounds like it would not be done in
15 parallel with the actual admissions process. It
16 would be done with a set of application files from
17 which admissions decisions had already been made
18 so that you could then evaluate, okay, how does
19 the experiment compare with what actually happened
20 with those files as they existed when they were
21 considered by the admissions office.

22 A. Yes.

23 Q. Okay. That makes sense. Okay.

24 MS. COMBS: Reach a good point for
25 a break soon?

1 MR. MCCARTHY: Yeah, I think I've
2 got a couple more questions on this and then we
3 can take a break and then we'll go for about an
4 hour, leaving you a couple minutes to get to your
5 1:00 meeting?

6 THE WITNESS: Okay.

7 MR. MCCARTHY: Make sense?

8 THE WITNESS: Sounds good.

9 MS. COMBS: Yep.

10 MR. MCCARTHY: That work? Okay.

11 MS. COMBS: Works for us.

12 Q. (Mr. McCarthy) Can we turn to the next
13 page? Do you see next to the number 4?

14 A. Yes.

15 Q. The note reads, "Understanding the
16 processes of admitted versus enrolled." Can you
17 tell me what that means?

18 A. Yes. The -- there's quite a bit of
19 literature around the differences between the
20 decision of being admitted versus not versus
21 enrolled versus not and what happens between the
22 admit time and the matriculation time.

23 Q. Okay. So this is yield analysis,
24 essentially?

25 A. Yes. Some -- with additional variables

1 of understanding what other factors are coming
2 into play.

3 Q. Okay. What other factors are coming
4 into play in the decision by an applicant who's
5 been admitted to enroll or not enroll?

6 A. Correct.

7 Q. Got it. Okay. Below that, there's a
8 header that says "Lab meetings."

9 A. Yes.

10 Q. Within that about the fifth or sixth
11 model down, it says "MK will do boots on the
12 ground causal models." Do you recall what that
13 means?

14 A. Yes.

15 Q. What does that mean?

16 A. Well, he's the -- he's a national expert
17 on causal modeling and so he will be supervising
18 the causal modeling piece of it especially.

19 Q. Understood, so -- and by causal
20 modeling, do you mean ---

21 A. The random forest modeling.

22 Q. Understood.

23 A. And other models that are related to
24 adjusting weights, the different weights of
25 variables and predicting what the outcomes would

1 be.

2 Q. Like the ones that we looked at a little
3 bit ago.

4 A. Yes. It's -- there's another series of
5 models that involve the -- the intentional
6 reweighting of variables in particular ways to
7 produce outcomes and whether or not they can
8 produce similar kinds of outcomes as what we get
9 now.

10 Q. Okay. So in other words the -- like the
11 simulations of race-neutral alternatives?

12 A. They are ---

13 Q. Like is that an example of what you
14 mean?

15 A. It's the change in the weights if we
16 apply different weights for -- for example fee
17 waiver. Much -- many more higher weight or higher
18 weight for any other first generation college
19 student. What happens to the outcome. Those
20 kinds of discussions.

21 Q. The point is he will do those when the
22 time comes to do those.

23 A. Yes. Yes, overall. He's doing them
24 now.

25 MR. MCCARTHY: Okay. And that's it

1 for now. Why don't we take a short break and then
2 we'll go for about an hour and then that'll be it.
3 Okay?

4 MS. COMBS: All right.

5 (Brief recess: 11:53 a.m. to 12:00 p.m.)

6 (EXHIBIT NUMBER 7 WAS MARKED)

7 Q. (Mr. McCarthy) Dr. Panter, I'm going to
8 hand you what's marked as Exhibit 7. That's an
9 email with an attachment to it. I think the
10 attachment with it is there for completeness. I
11 don't think we'll talk about it all. So let's
12 just look at the email that's at the front of this
13 Exhibit Number 7 here. Do you see that?

14 A. Yes.

15 Q. Do you recognize this email?

16 A. Yes.

17 Q. Okay. Can you tell me what it is?

18 A. It's an email from me to the Race-
19 Neutral Committee -- Strategies Committee.

20 Q. And what is -- what are you doing in
21 this email?

22 A. This email, I'm providing the interim
23 report so that they can provide comment.

24 Q. Understood. So you were soliciting
25 comment on the Draft Interim Report, correct?

1 Committee on Race-Neutral Strategies has been
2 following?

3 A. Yes.

4 Q. Okay. And other than following it, has
5 the Committee on Race-Neutral Strategies engaged
6 in discussions of whether or not this might be a
7 recommendation to make it to the University of
8 North Carolina?

9 A. We're not at that point.

10 Q. Okay. If you flip a couple pages,
11 you'll see that another document that was attached
12 to his email at the front of this exhibit,
13 "Inventory of assessments related to the delivery
14 of educational benefits of diversity and
15 inclusion."

16 I don't want to go through this document
17 at length but can you tell me where it is
18 generally?

19 A. Yes. We administered a survey to
20 diversity liaisons all around the University and
21 we collected different assessments that are -- are
22 ongoing in many of these locations and we
23 collected them and put them in a common format so
24 that we could access them and understand what the
25 University is collecting regularly on the

1 educational benefits of diversity and inclusion

2 Q. Okay. And what is the -- what is the
3 purpose of this analysis, this creation of this
4 inventory?

5 A. It's to coordinate the assessment around
6 -- around educational benefit and -- benefits of
7 diversity and inclusion like the charge of our --
8 our Working Group is to have an understanding of
9 what we are -- what we are assessing regularly on
10 this topic.

11 Q. Okay. So is -- is the idea here that
12 the Working Group wanted to get a full
13 understanding of all of the information across the
14 entire campus that might be available and worth
15 considering in this discussion of the educational
16 benefits of diversity?

17 A. As much as we can because it's a moving
18 target.

19 Q. Understood. And it's a pretty big
20 university.

21 A. Yes.

22 Q. Okay. Who is responsible for the
23 compiling and the authoring of this document?

24 A. The Office of Institutional Research and
25 Assessment, especially Lynn Williford.

1 Q. Okay. And she is a member of the EBD
2 Working Group, correct?

3 A. Yes, she is.

4 Q. Okay. And on the Assessment Subgroup?

5 A. Yes.

6 Q. Okay. To help me -- I want to see if
7 maybe this helps me understand what's in here. Is
8 your post as a professor within the Psychology
9 Department?

10 A. Psychology and Neuroscience.

11 Q. Okay. So ---

12 A. And -- yes.

13 Q. So I'm looking here at page 2 of this
14 document under Academic Departments, down the left
15 side it says Psychology Department. Do you see
16 that?

17 A. Okay. Yes.

18 Q. And so first I just want to ask, this is
19 the department of which you're a member and in
20 your capacity as a professor?

21 A. Yes.

22 Q. Okay. And did -- are you, by chance,
23 the diversity liaison ---

24 A. No.

25 Q. --- for that school?